

AMENDED IN ASSEMBLY APRIL 15, 1999

AMENDED IN ASSEMBLY APRIL 5, 1999

AMENDED IN ASSEMBLY MARCH 11, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 118**

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**Introduced by Assembly Member Washington**

January 5, 1999

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An act to amend Section 911.4 of the Government Code, to amend Section 1527.6 of the Health and Safety Code, and to amend Section 396 of the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 118, as amended, Washington. Foster care liability.

(1) Existing law requires a claim for personal injury against a public entity, which includes the state, the Regents of the University of California, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state, or against an employee of a public entity, to be presented not later than 6 months after accrual of the cause of action.

Existing law provides that when a claim is not filed within the 6-month period, an application for leave to present the claim within a reasonable time not to exceed one year after the accrual of the cause of action may be filed in accordance with specified provisions. Existing law provides that in computing that one-year period, the time during which the

person who sustained the injury or loss is a minor shall be counted, but time during which the person is mentally incapacitated and without a guardian or conservator shall not be counted.

This bill would provide that time during which a minor is ~~a~~ detained or *is a* dependent ~~minor or ward~~ of the court pursuant to certain provisions of law shall also not be counted in that one-year period.

(2) Existing law establishes the Foster Family Home and Small Family Home Insurance Fund to pay, on behalf of foster family homes and small family homes, claims of foster children, their parents, guardians, or guardians ad litem resulting from certain occurrences, peculiar to the foster-care relationship and the provision of foster-care services. Existing law requires that claims against the fund be filed on forms prescribed by the State Department of Social Services, and that the department approve or reject a claim within 180 days.

This bill would instead require that the department approve or reject a claim within 45 days.

Existing law provides that no person may bring a civil action, for which the fund is liable, against a foster parent, unless the person first files the claim against the fund and that claim is rejected or approved and paid.

This bill would instead provide that *no person may bring a civil action against a foster parent for which the fund is not* ~~liable for any claim unless the person filing the claim has first files the filed a claim against the fund prior to filing an action against the foster parent.~~

Existing law sets forth the policy of the Legislature with respect to foster care, including the policy that children have a right to a normal home life.

This bill would expand that policy to refer to the right to freedom from abuse.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 911.4 of the Government Code  
2 is amended to read:

911.4. (a) When a claim that is required by Section 911.2 to be presented not later than six months after the accrual of the cause of action is not presented within that time, a written application may be made to the public entity for leave to present that claim.

(b) The application shall be presented to the public entity as provided in Article 2 (commencing with Section 915) of this chapter within a reasonable time not to exceed one year after the accrual of the cause of action and shall state the reason for the delay in presenting the claim. The proposed claim shall be attached to the application. In computing the one-year period under this subdivision, time during which the person who sustained the alleged injury, damage, or loss is a minor shall be counted, ~~but except~~ *except* the time during which he or she is ~~a detained or dependent minor or ward~~ *detained or is a dependent* of the court pursuant to Section 300, ~~601, or 602,~~ of the Welfare and Institutions Code, or is mentally incapacitated and does not have a guardian or a conservator of his or her person *or is in the custody and control of an agency of the public entity to which the claim is to be presented* shall not be counted.

SEC. 2. Section 1527.6 of the Health and Safety Code is amended to read:

1527.6. (a) Any claim against the fund shall be filed with the fund in accordance with claims procedures and on forms prescribed by the State Department of Social Services or its designated contract agency.

(b) Any claim against the fund filed by a foster parent or a third party shall be submitted to the fund within the applicable period of limitations for the appropriate civil action underlying the claim. If a claim is not submitted to the fund within the applicable time, there shall be no recourse against the fund.

(c) The department shall approve or reject a claim within 45 days after it is presented.

~~(d) The fund shall not be liable for any claim unless the person filing that claim has first filed the claim against the fund prior to filing an action against the foster parent.~~

1     (d) *No person may bring a civil action against a foster*  
2     *parent for which the fund is liable, unless that person has*  
3     *first filed a claim against the fund.*

4     SEC. 3. Section 396 of the Welfare and Institutions  
5     Code is amended to read:

6     396. It is the policy of the Legislature that foster care  
7     should be a temporary method of care for the children of  
8     this state, that children have a right to a normal home life  
9     free from abuse, that reunification with the natural  
10    parent or parents or another alternate permanent living  
11    situation such as adoption or guardianship are more  
12    suitable to a child's well-being than is foster care, and that  
13    this state has a responsibility to attempt to ensure that  
14    children are given the chance to have a happy and  
15    healthy life, and that, to the extent possible, the current  
16    practice of moving children receiving foster care services  
17    from one foster home to another until they reach the age  
18    of majority should be discontinued.

